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SECOND SUBSTITUTE HOUSE BILL 3900

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State of Washington

55th Legislature

1997 Regular Session

**By** House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Sheahan, Ballasiotes, Schoesler, Bush, Honeyford, Carrell, Chandler, Mitchell, Clements, Huff, Thompson, Hankins, Mulliken, Koster, Carlson, Cairnes, Cooke, Johnson, Skinner, Mastin, Smith, Crouse, Benson, Alexander, Talcott, Robertson, Lisk, Zellinsky, Boldt, Delvin, Sterk, Lambert, Hickel, Backlund and Pennington)

Read first time 03/05/97 (Introduced with Senate Sponsors).

1       AN ACT Relating to offenders; amending RCW 5.60.060, 9.94A.040,  
2 9A.04.050, 13.40.010, 13.40.0357, 13.40.040, 13.40.045, 13.40.050,  
3 13.40.060, 13.40.070, 13.40.077, 13.40.080, 13.40.100, 13.40.110,  
4 13.40.125, 13.40.130, 13.40.135, 13.40.150, 13.40.160, 13.40.190,  
5 13.40.193, 13.40.200, 13.40.210, 13.40.230, 13.40.250, 13.40.265,  
6 13.40.320, 13.50.010, 13.50.050, 9A.36.045, 9A.36.050, 9.41.010,  
7 9.41.040, 9.94A.103, 9.94A.105, 9.94A.310, 10.99.020, 10.99.040, and  
8 10.99.050; reenacting and amending RCW 9.94A.030, 9.94A.120, 9.94A.360,  
9 13.04.030, 13.40.020, 9.94A.320, and 9A.46.060; adding a new section to  
10 chapter 13.40 RCW; repealing RCW 9.94A.045, 13.40.025, 13.40.0354, and  
11 13.40.075; and prescribing penalties.

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

13       **Sec. 1.** RCW 5.60.060 and 1996 c 156 s 1 are each amended to read  
14 as follows:

15       (1) A husband shall not be examined for or against his wife,  
16 without the consent of the wife, nor a wife for or against her husband  
17 without the consent of the husband; nor can either during marriage or  
18 afterward, be without the consent of the other, examined as to any  
19 communication made by one to the other during marriage. But this

1 exception shall not apply to a civil action or proceeding by one  
2 against the other, nor to a criminal action or proceeding for a crime  
3 committed by one against the other, nor to a criminal action or  
4 proceeding against a spouse if the marriage occurred subsequent to the  
5 filing of formal charges against the defendant, nor to a criminal  
6 action or proceeding for a crime committed by said husband or wife  
7 against any child of whom said husband or wife is the parent or  
8 guardian, nor to a proceeding under chapter 70.96A or 71.05 RCW:  
9 PROVIDED, That the spouse of a person sought to be detained under  
10 chapter 70.96A or 71.05 RCW may not be compelled to testify and shall  
11 be so informed by the court prior to being called as a witness.

12 (2)(a) An attorney or counselor shall not, without the consent of  
13 his or her client, be examined as to any communication made by the  
14 client to him or her, or his or her advice given thereon in the course  
15 of professional employment.

16 (b) A parent shall not be examined as to a communication made by  
17 that parent's minor child to the child's attorney after the filing of  
18 juvenile offender or adult criminal charges, if the parent was present  
19 at the time of the communication. This privilege does not extend to  
20 communications made prior to filing of charges.

21 (3) A member of the clergy or a priest shall not, without the  
22 consent of a person making the confession, be examined as to any  
23 confession made to him or her in his or her professional character, in  
24 the course of discipline enjoined by the church to which he or she  
25 belongs.

26 (4) Subject to the limitations under RCW 70.96A.140 or 71.05.250,  
27 a physician or surgeon or osteopathic physician or surgeon shall not,  
28 without the consent of his or her patient, be examined in a civil  
29 action as to any information acquired in attending such patient, which  
30 was necessary to enable him or her to prescribe or act for the patient,  
31 except as follows:

32 (a) In any judicial proceedings regarding a child's injury,  
33 neglect, or sexual abuse or the cause thereof; and

34 (b) Ninety days after filing an action for personal injuries or  
35 wrongful death, the claimant shall be deemed to waive the physician-  
36 patient privilege. Waiver of the physician-patient privilege for any  
37 one physician or condition constitutes a waiver of the privilege as to  
38 all physicians or conditions, subject to such limitations as a court  
39 may impose pursuant to court rules.

1 (5) A public officer shall not be examined as a witness as to  
2 communications made to him or her in official confidence, when the  
3 public interest would suffer by the disclosure.

4 (6)(a) A peer support group counselor shall not, without consent of  
5 the law enforcement officer making the communication, be compelled to  
6 testify about any communication made to the counselor by the officer  
7 while receiving counseling. The counselor must be designated as such  
8 by the sheriff, police chief, or chief of the Washington state patrol,  
9 prior to the incident that results in counseling. The privilege only  
10 applies when the communication was made to the counselor while acting  
11 in his or her capacity as a peer support group counselor. The  
12 privilege does not apply if the counselor was an initial responding  
13 officer, a witness, or a party to the incident which prompted the  
14 delivery of peer support group counseling services to the law  
15 enforcement officer.

16 (b) For purposes of this section, "peer support group counselor"  
17 means a:

18 (i) Law enforcement officer, or civilian employee of a law  
19 enforcement agency, who has received training to provide emotional and  
20 moral support and counseling to an officer who needs those services as  
21 a result of an incident in which the officer was involved while acting  
22 in his or her official capacity; or

23 (ii) Nonemployee counselor who has been designated by the sheriff,  
24 police chief, or chief of the Washington state patrol to provide  
25 emotional and moral support and counseling to an officer who needs  
26 those services as a result of an incident in which the officer was  
27 involved while acting in his or her official capacity.

28 (7) A sexual assault advocate may not, without the consent of the  
29 victim, be examined as to any communication made by the victim to the  
30 sexual assault advocate.

31 (a) For purposes of this section, "sexual assault advocate" means  
32 the employee or volunteer from a rape crisis center, victim assistance  
33 unit, program, or association, that provides information, medical or  
34 legal advocacy, counseling, or support to victims of sexual assault,  
35 who is designated by the victim to accompany the victim to the hospital  
36 or other health care facility and to proceedings concerning the alleged  
37 assault, including police and prosecution interviews and court  
38 proceedings.

1 (b) A sexual assault advocate may disclose a confidential  
2 communication without the consent of the victim if failure to disclose  
3 is likely to result in a clear, imminent risk of serious physical  
4 injury or death of the victim or another person. Any sexual assault  
5 advocate participating in good faith in the disclosing of records and  
6 communications under this section shall have immunity from any  
7 liability, civil, criminal, or otherwise, that might result from the  
8 action. In any proceeding, civil or criminal, arising out of a  
9 disclosure under this section, the good faith of the sexual assault  
10 advocate who disclosed the confidential communication shall be  
11 presumed.

12 **Sec. 2.** RCW 9.94A.030 and 1996 c 289 s 1 and 1996 c 275 s 5 are  
13 each reenacted and amended to read as follows:

14 Unless the context clearly requires otherwise, the definitions in  
15 this section apply throughout this chapter.

16 (1) "Collect," or any derivative thereof, "collect and remit," or  
17 "collect and deliver," when used with reference to the department of  
18 corrections, means that the department is responsible for monitoring  
19 and enforcing the offender's sentence with regard to the legal  
20 financial obligation, receiving payment thereof from the offender, and,  
21 consistent with current law, delivering daily the entire payment to the  
22 superior court clerk without depositing it in a departmental account.

23 (2) "Commission" means the sentencing guidelines commission.

24 (3) "Community corrections officer" means an employee of the  
25 department who is responsible for carrying out specific duties in  
26 supervision of sentenced offenders and monitoring of sentence  
27 conditions.

28 (4) "Community custody" means that portion of an inmate's sentence  
29 of confinement in lieu of earned early release time or imposed pursuant  
30 to RCW 9.94A.120 (6), (8), or (10) served in the community subject to  
31 controls placed on the inmate's movement and activities by the  
32 department of corrections.

33 (5) "Community placement" means that period during which the  
34 offender is subject to the conditions of community custody and/or  
35 postrelease supervision, which begins either upon completion of the  
36 term of confinement (postrelease supervision) or at such time as the  
37 offender is transferred to community custody in lieu of earned early

1 release. Community placement may consist of entirely community  
2 custody, entirely postrelease supervision, or a combination of the two.

3 (6) "Community service" means compulsory service, without  
4 compensation, performed for the benefit of the community by the  
5 offender.

6 (7) "Community supervision" means a period of time during which a  
7 convicted offender is subject to crime-related prohibitions and other  
8 sentence conditions imposed by a court pursuant to this chapter or RCW  
9 16.52.200(6) or 46.61.524. For first-time offenders, the supervision  
10 may include crime-related prohibitions and other conditions imposed  
11 pursuant to RCW 9.94A.120(5). For purposes of the interstate compact  
12 for out-of-state supervision of parolees and probationers, RCW  
13 9.95.270, community supervision is the functional equivalent of  
14 probation and should be considered the same as probation by other  
15 states.

16 (8) "Confinement" means total or partial confinement as defined in  
17 this section.

18 (9) "Conviction" means an adjudication of guilt pursuant to Titles  
19 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and  
20 acceptance of a plea of guilty.

21 (10) "Court-ordered legal financial obligation" means a sum of  
22 money that is ordered by a superior court of the state of Washington  
23 for legal financial obligations which may include restitution to the  
24 victim, statutorily imposed crime victims' compensation fees as  
25 assessed pursuant to RCW 7.68.035, court costs, county or interlocal  
26 drug funds, court-appointed attorneys' fees, and costs of defense,  
27 fines, and any other financial obligation that is assessed to the  
28 offender as a result of a felony conviction. Upon conviction for  
29 vehicular assault while under the influence of intoxicating liquor or  
30 any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the  
31 influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a),  
32 legal financial obligations may also include payment to a public agency  
33 of the expense of an emergency response to the incident resulting in  
34 the conviction, subject to the provisions in RCW 38.52.430.

35 (11) "Crime-related prohibition" means an order of a court  
36 prohibiting conduct that directly relates to the circumstances of the  
37 crime for which the offender has been convicted, and shall not be  
38 construed to mean orders directing an offender affirmatively to

1 participate in rehabilitative programs or to otherwise perform  
2 affirmative conduct.

3 (12)((+a)) "Criminal history" means the list of a defendant's  
4 prior convictions and juvenile adjudications, whether in this state, in  
5 federal court, or elsewhere. The history shall include, where known,  
6 for each conviction ((+i)) (a) whether the defendant has been placed  
7 on probation and the length and terms thereof; and ((+ii)) (b) whether  
8 the defendant has been incarcerated and the length of incarceration.

9 ~~((+b) "Criminal history" shall always include juvenile convictions  
10 for sex offenses and serious violent offenses and shall also include a  
11 defendant's other prior convictions in juvenile court if: (i) The  
12 conviction was for an offense which is a felony or a serious traffic  
13 offense and is criminal history as defined in RCW 13.40.020(9); (ii)  
14 the defendant was fifteen years of age or older at the time the offense  
15 was committed; and (iii) with respect to prior juvenile class B and C  
16 felonies or serious traffic offenses, the defendant was less than  
17 twenty-three years of age at the time the offense for which he or she  
18 is being sentenced was committed.))~~

19 (13) "Day fine" means a fine imposed by the sentencing judge that  
20 equals the difference between the offender's net daily income and the  
21 reasonable obligations that the offender has for the support of the  
22 offender and any dependents.

23 (14) "Day reporting" means a program of enhanced supervision  
24 designed to monitor the defendant's daily activities and compliance  
25 with sentence conditions, and in which the defendant is required to  
26 report daily to a specific location designated by the department or the  
27 sentencing judge.

28 (15) "Department" means the department of corrections.

29 (16) "Determinate sentence" means a sentence that states with  
30 exactitude the number of actual years, months, or days of total  
31 confinement, of partial confinement, of community supervision, the  
32 number of actual hours or days of community service work, or dollars or  
33 terms of a legal financial obligation. The fact that an offender  
34 through "earned early release" can reduce the actual period of  
35 confinement shall not affect the classification of the sentence as a  
36 determinate sentence.

37 (17) "Disposable earnings" means that part of the earnings of an  
38 individual remaining after the deduction from those earnings of any  
39 amount required by law to be withheld. For the purposes of this

1 definition, "earnings" means compensation paid or payable for personal  
2 services, whether denominated as wages, salary, commission, bonuses, or  
3 otherwise, and, notwithstanding any other provision of law making the  
4 payments exempt from garnishment, attachment, or other process to  
5 satisfy a court-ordered legal financial obligation, specifically  
6 includes periodic payments pursuant to pension or retirement programs,  
7 or insurance policies of any type, but does not include payments made  
8 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,  
9 or Title 74 RCW.

10 (18) "Drug offense" means:

11 (a) Any felony violation of chapter 69.50 RCW except possession of  
12 a controlled substance (RCW 69.50.401(d)) or forged prescription for a  
13 controlled substance (RCW 69.50.403);

14 (b) Any offense defined as a felony under federal law that relates  
15 to the possession, manufacture, distribution, or transportation of a  
16 controlled substance; or

17 (c) Any out-of-state conviction for an offense that under the laws  
18 of this state would be a felony classified as a drug offense under (a)  
19 of this subsection.

20 (19) "Escape" means:

21 (a) Escape in the first degree (RCW 9A.76.110), escape in the  
22 second degree (RCW 9A.76.120), willful failure to return from furlough  
23 (RCW 72.66.060), willful failure to return from work release (RCW  
24 72.65.070), or willful failure to be available for supervision by the  
25 department while in community custody (RCW 72.09.310); or

26 (b) Any federal or out-of-state conviction for an offense that  
27 under the laws of this state would be a felony classified as an escape  
28 under (a) of this subsection.

29 (20) "Felony traffic offense" means:

30 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW  
31 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-  
32 and-run injury-accident (RCW 46.52.020(4)); or

33 (b) Any federal or out-of-state conviction for an offense that  
34 under the laws of this state would be a felony classified as a felony  
35 traffic offense under (a) of this subsection.

36 (21) "Fines" means the requirement that the offender pay a specific  
37 sum of money over a specific period of time to the court.

38 (22)((~~a~~)) "First-time offender" means any person who is convicted  
39 of a felony ((~~i~~)) a not classified as a violent offense or a sex

1 offense under this chapter, or ~~((+ii+))~~ (b) that is not the  
2 manufacture, delivery, or possession with intent to manufacture or  
3 deliver a controlled substance classified in schedule I or II that is  
4 a narcotic drug, nor the manufacture, delivery, or possession with  
5 intent to deliver methamphetamine, its salts, isomers, and salts of its  
6 isomers as defined in RCW 69.50.206(d)(2), nor the selling for profit  
7 of any controlled substance or counterfeit substance classified in  
8 schedule I, RCW 69.50.204, except leaves and flowering tops of  
9 marihuana, ~~((and except as provided in (b) of this subsection,))~~ who  
10 previously has never been convicted of a felony in this state, federal  
11 court, or another state, and who has never participated in a program of  
12 deferred prosecution for a felony offense.

13 ~~((+b) For purposes of (a) of this subsection, a juvenile  
14 adjudication for an offense committed before the age of fifteen years  
15 is not a previous felony conviction except for adjudications of sex  
16 offenses and serious violent offenses.))~~

17 (23) "Most serious offense" means any of the following felonies or  
18 a felony attempt to commit any of the following felonies, as now  
19 existing or hereafter amended:

20 (a) Any felony defined under any law as a class A felony or  
21 criminal solicitation of or criminal conspiracy to commit a class A  
22 felony;

23 (b) Assault in the second degree;

24 (c) Assault of a child in the second degree;

25 (d) Child molestation in the second degree;

26 (e) Controlled substance homicide;

27 (f) Extortion in the first degree;

28 (g) Incest when committed against a child under age fourteen;

29 (h) Indecent liberties;

30 (i) Kidnapping in the second degree;

31 (j) Leading organized crime;

32 (k) Manslaughter in the first degree;

33 (l) Manslaughter in the second degree;

34 (m) Promoting prostitution in the first degree;

35 (n) Rape in the third degree;

36 (o) Robbery in the second degree;

37 (p) Sexual exploitation;

38 (q) Vehicular assault;



1 (r) Vehicular homicide, when proximately caused by the driving of  
2 any vehicle by any person while under the influence of intoxicating  
3 liquor or any drug as defined by RCW 46.61.502, or by the operation of  
4 any vehicle in a reckless manner;

5 (s) Any other class B felony offense with a finding of sexual  
6 motivation, as "sexual motivation" is defined under this section;

7 (t) Any other felony with a deadly weapon verdict under RCW  
8 9.94A.125;

9 (u) Any felony offense in effect at any time prior to December 2,  
10 1993, that is comparable to a most serious offense under this  
11 subsection, or any federal or out-of-state conviction for an offense  
12 that under the laws of this state would be a felony classified as a  
13 most serious offense under this subsection.

14 (24) "Nonviolent offense" means an offense which is not a violent  
15 offense.

16 (25) "Offender" means a person who has committed a felony  
17 established by state law and is eighteen years of age or older or is  
18 less than eighteen years of age but whose case is under superior court  
19 jurisdiction under RCW 13.04.030 or has been transferred by the  
20 appropriate juvenile court to a criminal court pursuant to RCW  
21 13.40.110. Throughout this chapter, the terms "offender" and  
22 "defendant" are used interchangeably.

23 (26) "Partial confinement" means confinement for no more than one  
24 year in a facility or institution operated or utilized under contract  
25 by the state or any other unit of government, or, if home detention or  
26 work crew has been ordered by the court, in an approved residence, for  
27 a substantial portion of each day with the balance of the day spent in  
28 the community. Partial confinement includes work release, home  
29 detention, work crew, and a combination of work crew and home detention  
30 as defined in this section.

31 (27) "Persistent offender" is an offender who:

32 (a)(i) Has been convicted in this state of any felony considered a  
33 most serious offense; and

34 (ii) Has, before the commission of the offense under (a) of this  
35 subsection, been convicted as an offender on at least two separate  
36 occasions, whether in this state or elsewhere, of felonies that under  
37 the laws of this state would be considered most serious offenses and  
38 would be included in the offender score under RCW 9.94A.360; provided  
39 that of the two or more previous convictions, at least one conviction

1 must have occurred before the commission of any of the other most  
2 serious offenses for which the offender was previously convicted; or

3 (b)(i) Has been convicted of (A) rape in the first degree, rape in  
4 the second degree, or indecent liberties by forcible compulsion; (B)  
5 murder in the first degree, murder in the second degree, kidnapping in  
6 the first degree, kidnapping in the second degree, assault in the first  
7 degree, assault in the second degree, or burglary in the first degree,  
8 with a finding of sexual motivation; or (C) an attempt to commit any  
9 crime listed in this subsection (27)(b)(i); and

10 (ii) Has, before the commission of the offense under (b)(i) of this  
11 subsection, been convicted as an offender on at least one occasion,  
12 whether in this state or elsewhere, of an offense listed in (b)(i) of  
13 this subsection.

14 (28) "Postrelease supervision" is that portion of an offender's  
15 community placement that is not community custody.

16 (29) "Restitution" means the requirement that the offender pay a  
17 specific sum of money over a specific period of time to the court as  
18 payment of damages. The sum may include both public and private costs.  
19 The imposition of a restitution order does not preclude civil redress.

20 (30) "Serious traffic offense" means:

21 (a) Driving while under the influence of intoxicating liquor or any  
22 drug (RCW 46.61.502), actual physical control while under the influence  
23 of intoxicating liquor or any drug (RCW 46.61.504), reckless driving  
24 (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5));  
25 or

26 (b) Any federal, out-of-state, county, or municipal conviction for  
27 an offense that under the laws of this state would be classified as a  
28 serious traffic offense under (a) of this subsection.

29 (31) "Serious violent offense" is a subcategory of violent offense  
30 and means:

31 (a) Murder in the first degree, homicide by abuse, murder in the  
32 second degree, assault in the first degree, kidnapping in the first  
33 degree, or rape in the first degree, assault of a child in the first  
34 degree, or an attempt, criminal solicitation, or criminal conspiracy to  
35 commit one of these felonies; or

36 (b) Any federal or out-of-state conviction for an offense that  
37 under the laws of this state would be a felony classified as a serious  
38 violent offense under (a) of this subsection.

1 (32) "Sentence range" means the sentencing court's discretionary  
2 range in imposing a nonappealable sentence.

3 (33) "Sex offense" means:

4 (a) A felony that is a violation of chapter 9A.44 RCW or RCW  
5 9A.64.020 or 9.68A.090 or a felony that is, under chapter 9A.28 RCW, a  
6 criminal attempt, criminal solicitation, or criminal conspiracy to  
7 commit such crimes;

8 (b) A felony with a finding of sexual motivation under RCW  
9 9.94A.127 or 13.40.135; or

10 (c) Any federal or out-of-state conviction for an offense that  
11 under the laws of this state would be a felony classified as a sex  
12 offense under (a) of this subsection.

13 (34) "Sexual motivation" means that one of the purposes for which  
14 the defendant committed the crime was for the purpose of his or her  
15 sexual gratification.

16 (35) "Total confinement" means confinement inside the physical  
17 boundaries of a facility or institution operated or utilized under  
18 contract by the state or any other unit of government for twenty-four  
19 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

20 (36) "Transition training" means written and verbal instructions  
21 and assistance provided by the department to the offender during the  
22 two weeks prior to the offender's successful completion of the work  
23 ethic camp program. The transition training shall include instructions  
24 in the offender's requirements and obligations during the offender's  
25 period of community custody.

26 (37) "Victim" means any person who has sustained emotional,  
27 psychological, physical, or financial injury to person or property as  
28 a direct result of the crime charged.

29 (38) "Violent offense" means:

30 (a) Any of the following felonies, as now existing or hereafter  
31 amended: Any felony defined under any law as a class A felony or an  
32 attempt to commit a class A felony, criminal solicitation of or  
33 criminal conspiracy to commit a class A felony, manslaughter in the  
34 first degree, manslaughter in the second degree, indecent liberties if  
35 committed by forcible compulsion, kidnapping in the second degree,  
36 arson in the second degree, assault in the second degree, assault of a  
37 child in the second degree, extortion in the first degree, robbery in  
38 the second degree, drive-by shooting, vehicular assault, and vehicular  
39 homicide, when proximately caused by the driving of any vehicle by any

1 person while under the influence of intoxicating liquor or any drug as  
2 defined by RCW 46.61.502, or by the operation of any vehicle in a  
3 reckless manner;

4 (b) Any conviction for a felony offense in effect at any time prior  
5 to July 1, 1976, that is comparable to a felony classified as a violent  
6 offense in (a) of this subsection; and

7 (c) Any federal or out-of-state conviction for an offense that  
8 under the laws of this state would be a felony classified as a violent  
9 offense under (a) or (b) of this subsection.

10 (39) "Work crew" means a program of partial confinement consisting  
11 of civic improvement tasks for the benefit of the community of not less  
12 than thirty-five hours per week that complies with RCW 9.94A.135. The  
13 civic improvement tasks shall have minimal negative impact on existing  
14 private industries or the labor force in the county where the service  
15 or labor is performed. The civic improvement tasks shall not affect  
16 employment opportunities for people with developmental disabilities  
17 contracted through sheltered workshops as defined in RCW 82.04.385.  
18 Only those offenders sentenced to a facility operated or utilized under  
19 contract by a county or the state are eligible to participate on a work  
20 crew. Offenders sentenced for a sex offense as defined in subsection  
21 (33) of this section are not eligible for the work crew program.

22 (40) "Work ethic camp" means an alternative incarceration program  
23 designed to reduce recidivism and lower the cost of corrections by  
24 requiring offenders to complete a comprehensive array of real-world job  
25 and vocational experiences, character-building work ethics training,  
26 life management skills development, substance abuse rehabilitation,  
27 counseling, literacy training, and basic adult education.

28 (41) "Work release" means a program of partial confinement  
29 available to offenders who are employed or engaged as a student in a  
30 regular course of study at school. Participation in work release shall  
31 be conditioned upon the offender attending work or school at regularly  
32 defined hours and abiding by the rules of the work release facility.

33 (42) "Home detention" means a program of partial confinement  
34 available to offenders wherein the offender is confined in a private  
35 residence subject to electronic surveillance.

36 **Sec. 3.** RCW 9.94A.040 and 1996 c 232 s 1 are each amended to read  
37 as follows:

1 (1) A sentencing guidelines commission is established as an agency  
2 of state government.

3 (2) The legislature finds that the commission, having accomplished  
4 its original statutory directive to implement this chapter, and having  
5 expertise in sentencing practice and policies, shall:

6 (a) Evaluate state sentencing policy, to include whether the  
7 sentencing ranges and standards are consistent with and further:

8 (i) The purposes of this chapter as defined in RCW 9.94A.010; and

9 (ii) The intent of the legislature to emphasize confinement for the  
10 violent offender and alternatives to confinement for the nonviolent  
11 offender.

12 The commission shall provide the governor and the legislature with  
13 its evaluation and recommendations under this subsection not later than  
14 December 1, 1996, and every two years thereafter;

15 (b) Recommend to the legislature revisions or modifications to the  
16 standard sentence ranges, state sentencing policy, prosecuting  
17 standards, and other standards. If implementation of the revisions or  
18 modifications would result in exceeding the capacity of correctional  
19 facilities, then the commission shall accompany its recommendation with  
20 an additional list of standard sentence ranges which are consistent  
21 with correction capacity;

22 (c) Study the existing criminal code and from time to time make  
23 recommendations to the legislature for modification;

24 (d)(i) Serve as a clearinghouse and information center for the  
25 collection, preparation, analysis, and dissemination of information on  
26 state and local adult and juvenile sentencing practices; (ii) develop  
27 and maintain a computerized adult and juvenile sentencing information  
28 system by individual superior court judge consisting of offender,  
29 offense, history, and sentence information entered from judgment and  
30 sentence forms for all adult felons; and (iii) conduct ongoing research  
31 regarding adult and juvenile sentencing guidelines, use of total  
32 confinement and alternatives to total confinement, plea bargaining, and  
33 other matters relating to the improvement of the adult criminal justice  
34 system and the juvenile justice system;

35 (e) Assume the powers and duties of the juvenile disposition  
36 standards commission after June 30, 1996;

37 (f) Evaluate the effectiveness of existing disposition standards  
38 and related statutes in implementing policies set forth in RCW  
39 13.40.010 generally, specifically review the guidelines relating to the

1 confinement of minor and first offenders as well as the use of  
2 diversion, and review the application of current and proposed juvenile  
3 sentencing standards and guidelines for potential adverse impacts on  
4 the sentencing outcomes of racial and ethnic minority youth;

5 (g) Solicit the comments and suggestions of the juvenile justice  
6 community concerning disposition standards, and make recommendations to  
7 the legislature regarding revisions or modifications of the standards  
8 (~~((in accordance with RCW 9.94A.045))~~). The evaluations shall be  
9 submitted to the legislature on December 1 of each odd-numbered year.  
10 The department of social and health services shall provide the  
11 commission with available data concerning the implementation of the  
12 disposition standards and related statutes and their effect on the  
13 performance of the department's responsibilities relating to juvenile  
14 offenders, and with recommendations for modification of the disposition  
15 standards. The office of the administrator for the courts shall  
16 provide the commission with available data on diversion and  
17 dispositions of juvenile offenders under chapter 13.40 RCW; and

18 (h) Not later than December 1, 1997, and at least every two years  
19 thereafter, based on available information, report to the governor and  
20 the legislature on:

21 (i) Racial disproportionality in juvenile and adult sentencing;

22 (ii) The capacity of state and local juvenile and adult facilities  
23 and resources; and

24 (iii) Recidivism information on adult and juvenile offenders.

25 (3) Each of the commission's recommended standard sentence ranges  
26 shall include one or more of the following: Total confinement, partial  
27 confinement, community supervision, community service, and a fine.

28 (4) The standard sentence ranges of total and partial confinement  
29 under this chapter are subject to the following limitations:

30 (a) If the maximum term in the range is one year or less, the  
31 minimum term in the range shall be no less than one-third of the  
32 maximum term in the range, except that if the maximum term in the range  
33 is ninety days or less, the minimum term may be less than one-third of  
34 the maximum;

35 (b) If the maximum term in the range is greater than one year, the  
36 minimum term in the range shall be no less than seventy-five percent of  
37 the maximum term in the range; and

38 (c) The maximum term of confinement in a range may not exceed the  
39 statutory maximum for the crime as provided in RCW 9A.20.021.

1 (5) The commission shall exercise its duties under this section in  
2 conformity with chapter 34.05 RCW.

3 **Sec. 4.** RCW 9.94A.120 and 1996 c 275 s 2, 1996 c 215 s 5, 1996 c  
4 199 s 1, and 1996 c 93 s 1 are each reenacted and amended to read as  
5 follows:

6 When a person is convicted of a felony, the court shall impose  
7 punishment as provided in this section.

8 (1) Except as authorized in subsections (2), (4), (5), (6), and (8)  
9 of this section, the court shall impose a sentence within the sentence  
10 range for the offense.

11 (2) The court may impose a sentence outside the standard sentence  
12 range for that offense if it finds, considering the purpose of this  
13 chapter, that there are substantial and compelling reasons justifying  
14 an exceptional sentence.

15 (3) Whenever a sentence outside the standard range is imposed, the  
16 court shall set forth the reasons for its decision in written findings  
17 of fact and conclusions of law. A sentence outside the standard range  
18 shall be a determinate sentence.

19 (4) A persistent offender shall be sentenced to a term of total  
20 confinement for life without the possibility of parole or, when  
21 authorized by RCW 10.95.030 for the crime of aggravated murder in the  
22 first degree, sentenced to death, notwithstanding the maximum sentence  
23 under any other law. An offender convicted of the crime of murder in  
24 the first degree shall be sentenced to a term of total confinement not  
25 less than twenty years. An offender convicted of the crime of assault  
26 in the first degree or assault of a child in the first degree where the  
27 offender used force or means likely to result in death or intended to  
28 kill the victim shall be sentenced to a term of total confinement not  
29 less than five years. An offender convicted of the crime of rape in  
30 the first degree shall be sentenced to a term of total confinement not  
31 less than five years. The foregoing minimum terms of total confinement  
32 are mandatory and shall not be varied or modified as provided in  
33 subsection (2) of this section. In addition, all offenders subject to  
34 the provisions of this subsection shall not be eligible for community  
35 custody, earned early release time, furlough, home detention, partial  
36 confinement, work crew, work release, or any other form of early  
37 release as defined under RCW 9.94A.150 (1), (2), (3), (5), (7), or (8),  
38 or any other form of authorized leave of absence from the correctional

1 facility while not in the direct custody of a corrections officer or  
2 officers during such minimum terms of total confinement except in the  
3 case of an offender in need of emergency medical treatment or for the  
4 purpose of commitment to an inpatient treatment facility in the case of  
5 an offender convicted of the crime of rape in the first degree.

6 (5) In sentencing a first-time offender the court may waive the  
7 imposition of a sentence within the sentence range and impose a  
8 sentence which may include up to ninety days of confinement in a  
9 facility operated or utilized under contract by the county and a  
10 requirement that the offender refrain from committing new offenses.  
11 The sentence may also include up to two years of community supervision,  
12 which, in addition to crime-related prohibitions, may include  
13 requirements that the offender perform any one or more of the  
14 following:

15 (a) Devote time to a specific employment or occupation;

16 (b) Undergo available outpatient treatment for up to two years, or  
17 inpatient treatment not to exceed the standard range of confinement for  
18 that offense;

19 (c) Pursue a prescribed, secular course of study or vocational  
20 training;

21 (d) Remain within prescribed geographical boundaries and notify the  
22 court or the community corrections officer prior to any change in the  
23 offender's address or employment;

24 (e) Report as directed to the court and a community corrections  
25 officer; or

26 (f) Pay all court-ordered legal financial obligations as provided  
27 in RCW 9.94A.030 and/or perform community service work.

28 (6)(a) An offender is eligible for the special drug offender  
29 sentencing alternative if:

30 (i) The offender is convicted of the manufacture, delivery, or  
31 possession with intent to manufacture or deliver a controlled substance  
32 classified in Schedule I or II that is a narcotic drug or a felony that  
33 is, under chapter 9A.28 RCW or RCW 69.50.407, a criminal attempt,  
34 criminal solicitation, or criminal conspiracy to commit such crimes,  
35 and the violation does not involve a sentence enhancement under RCW  
36 9.94A.310 (3) or (4);

37 (ii) The offender has no prior convictions for a felony in this  
38 state, another state, or the United States; and



1 (iii) The offense involved only a small quantity of the particular  
2 controlled substance as determined by the judge upon consideration of  
3 such factors as the weight, purity, packaging, sale price, and street  
4 value of the controlled substance.

5 (b) If the midpoint of the standard range is greater than one year  
6 and the sentencing judge determines that the offender is eligible for  
7 this option and that the offender and the community will benefit from  
8 the use of the special drug offender sentencing alternative, the judge  
9 may waive imposition of a sentence within the standard range and impose  
10 a sentence that must include a period of total confinement in a state  
11 facility for one-half of the midpoint of the standard range. During  
12 incarceration in the state facility, offenders sentenced under this  
13 subsection shall undergo a comprehensive substance abuse assessment and  
14 receive, within available resources, treatment services appropriate for  
15 the offender. The treatment services shall be designed by the division  
16 of alcohol and substance abuse of the department of social and health  
17 services, in cooperation with the department of corrections. If the  
18 midpoint of the standard range is twenty-four months or less, no more  
19 than three months of the sentence may be served in a work release  
20 status. The court shall also impose one year of concurrent community  
21 custody and community supervision that must include appropriate  
22 outpatient substance abuse treatment, crime-related prohibitions  
23 including a condition not to use illegal controlled substances, and a  
24 requirement to submit to urinalysis or other testing to monitor that  
25 status. The court may require that the monitoring for controlled  
26 substances be conducted by the department or by a treatment  
27 alternatives to street crime program or a comparable court or agency-  
28 referred program. The offender may be required to pay thirty dollars  
29 per month while on community custody to offset the cost of monitoring.  
30 In addition, the court shall impose three or more of the following  
31 conditions:

32 (i) Devote time to a specific employment or training;

33 (ii) Remain within prescribed geographical boundaries and notify  
34 the court or the community corrections officer before any change in the  
35 offender's address or employment;

36 (iii) Report as directed to a community corrections officer;

37 (iv) Pay all court-ordered legal financial obligations;

38 (v) Perform community service work;

39 (vi) Stay out of areas designated by the sentencing judge.

1 (c) If the offender violates any of the sentence conditions in (b)  
2 of this subsection, the department shall impose sanctions  
3 administratively, with notice to the prosecuting attorney and the  
4 sentencing court. Upon motion of the court or the prosecuting  
5 attorney, a violation hearing shall be held by the court. If the court  
6 finds that conditions have been willfully violated, the court may  
7 impose confinement consisting of up to the remaining one-half of the  
8 midpoint of the standard range. All total confinement served during  
9 the period of community custody shall be credited to the offender,  
10 regardless of whether the total confinement is served as a result of  
11 the original sentence, as a result of a sanction imposed by the  
12 department, or as a result of a violation found by the court. The term  
13 of community supervision shall be tolled by any period of time served  
14 in total confinement as a result of a violation found by the court.

15 (d) The department shall determine the rules for calculating the  
16 value of a day fine based on the offender's income and reasonable  
17 obligations which the offender has for the support of the offender and  
18 any dependents. These rules shall be developed in consultation with  
19 the administrator for the courts, the office of financial management,  
20 and the commission.

21 (7) If a sentence range has not been established for the  
22 defendant's crime, the court shall impose a determinate sentence which  
23 may include not more than one year of confinement, community service  
24 work, a term of community supervision not to exceed one year, and/or  
25 other legal financial obligations. The court may impose a sentence  
26 which provides more than one year of confinement if the court finds,  
27 considering the purpose of this chapter, that there are substantial and  
28 compelling reasons justifying an exceptional sentence.

29 (8)(a)(i) When an offender is convicted of a sex offense other than  
30 a violation of RCW 9A.44.050 or a sex offense that is also a serious  
31 violent offense and has no prior convictions for a sex offense or any  
32 other felony sex offenses in this or any other state, the sentencing  
33 court, on its own motion or the motion of the state or the defendant,  
34 may order an examination to determine whether the defendant is amenable  
35 to treatment.

36 The report of the examination shall include at a minimum the  
37 following: The defendant's version of the facts and the official  
38 version of the facts, the defendant's offense history, an assessment of  
39 problems in addition to alleged deviant behaviors, the offender's

1 social and employment situation, and other evaluation measures used.  
2 The report shall set forth the sources of the evaluator's information.

3 The examiner shall assess and report regarding the defendant's  
4 amenability to treatment and relative risk to the community. A  
5 proposed treatment plan shall be provided and shall include, at a  
6 minimum:

7 (A) Frequency and type of contact between offender and therapist;

8 (B) Specific issues to be addressed in the treatment and  
9 description of planned treatment modalities;

10 (C) Monitoring plans, including any requirements regarding living  
11 conditions, lifestyle requirements, and monitoring by family members  
12 and others;

13 (D) Anticipated length of treatment; and

14 (E) Recommended crime-related prohibitions.

15 The court on its own motion may order, or on a motion by the state  
16 shall order, a second examination regarding the offender's amenability  
17 to treatment. The evaluator shall be selected by the party making the  
18 motion. The defendant shall pay the cost of any second examination  
19 ordered unless the court finds the defendant to be indigent in which  
20 case the state shall pay the cost.

21 (ii) After receipt of the reports, the court shall consider whether  
22 the offender and the community will benefit from use of this special  
23 sexual offender sentencing alternative and consider the victim's  
24 opinion whether the offender should receive a treatment disposition  
25 under this subsection. If the court determines that this special sex  
26 offender sentencing alternative is appropriate, the court shall then  
27 impose a sentence within the sentence range. If this sentence is less  
28 than eight years of confinement, the court may suspend the execution of  
29 the sentence and impose the following conditions of suspension:

30 (A) The court shall place the defendant on community custody for  
31 the length of the suspended sentence or three years, whichever is  
32 greater, and require the offender to comply with any conditions imposed  
33 by the department of corrections under subsection (14) of this section;  
34 and

35 (B) The court shall order treatment for any period up to three  
36 years in duration. The court in its discretion shall order outpatient  
37 sex offender treatment or inpatient sex offender treatment, if  
38 available. A community mental health center may not be used for such  
39 treatment unless it has an appropriate program designed for sex

1 offender treatment. The offender shall not change sex offender  
2 treatment providers or treatment conditions without first notifying the  
3 prosecutor, the community corrections officer, and the court, and shall  
4 not change providers without court approval after a hearing if the  
5 prosecutor or community corrections officer object to the change. In  
6 addition, as conditions of the suspended sentence, the court may impose  
7 other sentence conditions including up to six months of confinement,  
8 not to exceed the sentence range of confinement for that offense,  
9 crime-related prohibitions, and requirements that the offender perform  
10 any one or more of the following:

11 (I) Devote time to a specific employment or occupation;

12 (II) Remain within prescribed geographical boundaries and notify  
13 the court or the community corrections officer prior to any change in  
14 the offender's address or employment;

15 (III) Report as directed to the court and a community corrections  
16 officer;

17 (IV) Pay all court-ordered legal financial obligations as provided  
18 in RCW 9.94A.030, perform community service work, or any combination  
19 thereof; or

20 (V) Make recoupment to the victim for the cost of any counseling  
21 required as a result of the offender's crime.

22 (iii) The sex offender therapist shall submit quarterly reports on  
23 the defendant's progress in treatment to the court and the parties.  
24 The report shall reference the treatment plan and include at a minimum  
25 the following: Dates of attendance, defendant's compliance with  
26 requirements, treatment activities, the defendant's relative progress  
27 in treatment, and any other material as specified by the court at  
28 sentencing.

29 (iv) At the time of sentencing, the court shall set a treatment  
30 termination hearing for three months prior to the anticipated date for  
31 completion of treatment. Prior to the treatment termination hearing,  
32 the treatment professional and community corrections officer shall  
33 submit written reports to the court and parties regarding the  
34 defendant's compliance with treatment and monitoring requirements, and  
35 recommendations regarding termination from treatment, including  
36 proposed community supervision conditions. Either party may request  
37 and the court may order another evaluation regarding the advisability  
38 of termination from treatment. The defendant shall pay the cost of any  
39 additional evaluation ordered unless the court finds the defendant to

1 be indigent in which case the state shall pay the cost. At the  
2 treatment termination hearing the court may: (A) Modify conditions of  
3 community custody, and either (B) terminate treatment, or (C) extend  
4 treatment for up to the remaining period of community custody.

5 (v) If a violation of conditions occurs during community custody,  
6 the department shall either impose sanctions as provided for in RCW  
7 9.94A.205(2)(a) or refer the violation to the court and recommend  
8 revocation of the suspended sentence as provided for in (a)(vi) of this  
9 subsection.

10 (vi) The court may revoke the suspended sentence at any time during  
11 the period of community custody and order execution of the sentence if:  
12 (A) The defendant violates the conditions of the suspended sentence, or  
13 (B) the court finds that the defendant is failing to make satisfactory  
14 progress in treatment. All confinement time served during the period  
15 of community custody shall be credited to the offender if the suspended  
16 sentence is revoked.

17 (vii) Except as provided in (a) (viii) of this subsection, after  
18 July 1, 1991, examinations and treatment ordered pursuant to this  
19 subsection shall only be conducted by sex offender treatment providers  
20 certified by the department of health pursuant to chapter 18.155 RCW.

21 (viii) A sex offender therapist who examines or treats a sex  
22 offender pursuant to this subsection (8) does not have to be certified  
23 by the department of health pursuant to chapter 18.155 RCW if the court  
24 finds that: (A) The offender has already moved to another state or  
25 plans to move to another state for reasons other than circumventing the  
26 certification requirements; (B) no certified providers are available  
27 for treatment within a reasonable geographical distance of the  
28 offender's home; and (C) the evaluation and treatment plan comply with  
29 this subsection (8) and the rules adopted by the department of health.

30 (ix) For purposes of this subsection (8), "victim" means any person  
31 who has sustained emotional, psychological, physical, or financial  
32 injury to person or property as a result of the crime charged.  
33 "Victim" also means a parent or guardian of a victim who is a minor  
34 child unless the parent or guardian is the perpetrator of the offense.

35 (x) If the defendant was less than eighteen years of age when the  
36 charge was filed, the state shall pay for the cost of initial  
37 evaluation and treatment.

38 (b) When an offender commits any felony sex offense on or after  
39 July 1, 1987, and is sentenced to a term of confinement of more than

1 one year but less than six years, the sentencing court may, on its own  
2 motion or on the motion of the offender or the state, request the  
3 department of corrections to evaluate whether the offender is amenable  
4 to treatment and the department may place the offender in a treatment  
5 program within a correctional facility operated by the department.

6 Except for an offender who has been convicted of a violation of RCW  
7 9A.44.040 or 9A.44.050, if the offender completes the treatment program  
8 before the expiration of his or her term of confinement, the department  
9 of corrections may request the court to convert the balance of  
10 confinement to community supervision and to place conditions on the  
11 offender including crime-related prohibitions and requirements that the  
12 offender perform any one or more of the following:

- 13 (i) Devote time to a specific employment or occupation;
- 14 (ii) Remain within prescribed geographical boundaries and notify  
15 the court or the community corrections officer prior to any change in  
16 the offender's address or employment;
- 17 (iii) Report as directed to the court and a community corrections  
18 officer;
- 19 (iv) Undergo available outpatient treatment.

20 If the offender violates any of the terms of his or her community  
21 supervision, the court may order the offender to serve out the balance  
22 of his or her community supervision term in confinement in the custody  
23 of the department of corrections.

24 Nothing in this subsection (8)(b) shall confer eligibility for such  
25 programs for offenders convicted and sentenced for a sex offense  
26 committed prior to July 1, 1987. This subsection (8)(b) does not apply  
27 to any crime committed after July 1, 1990.

28 (c) Offenders convicted and sentenced for a sex offense committed  
29 prior to July 1, 1987, may, subject to available funds, request an  
30 evaluation by the department of corrections to determine whether they  
31 are amenable to treatment. If the offender is determined to be  
32 amenable to treatment, the offender may request placement in a  
33 treatment program within a correctional facility operated by the  
34 department. Placement in such treatment program is subject to  
35 available funds.

36 (9)(a) When a court sentences a person to a term of total  
37 confinement to the custody of the department of corrections for an  
38 offense categorized as a sex offense or a serious violent offense  
39 committed after July 1, 1988, but before July 1, 1990, assault in the

1 second degree, assault of a child in the second degree, any crime  
2 against a person where it is determined in accordance with RCW  
3 9.94A.125 that the defendant or an accomplice was armed with a deadly  
4 weapon at the time of commission, or any felony offense under chapter  
5 69.50 or 69.52 RCW not sentenced under subsection (6) of this section,  
6 committed on or after July 1, 1988, the court shall in addition to the  
7 other terms of the sentence, sentence the offender to a one-year term  
8 of community placement beginning either upon completion of the term of  
9 confinement or at such time as the offender is transferred to community  
10 custody in lieu of earned early release in accordance with RCW  
11 9.94A.150 (1) and (2). When the court sentences an offender under this  
12 subsection to the statutory maximum period of confinement then the  
13 community placement portion of the sentence shall consist entirely of  
14 such community custody to which the offender may become eligible, in  
15 accordance with RCW 9.94A.150 (1) and (2). Any period of community  
16 custody actually served shall be credited against the community  
17 placement portion of the sentence.

18 (b) When a court sentences a person to a term of total confinement  
19 to the custody of the department of corrections for an offense  
20 categorized as a sex offense committed on or after July 1, 1990, but  
21 before June 6, 1996, a serious violent offense, vehicular homicide, or  
22 vehicular assault, committed on or after July 1, 1990, the court shall  
23 in addition to other terms of the sentence, sentence the offender to  
24 community placement for two years or up to the period of earned early  
25 release awarded pursuant to RCW 9.94A.150 (1) and (2), whichever is  
26 longer. The community placement shall begin either upon completion of  
27 the term of confinement or at such time as the offender is transferred  
28 to community custody in lieu of earned early release in accordance with  
29 RCW 9.94A.150 (1) and (2). When the court sentences an offender under  
30 this subsection to the statutory maximum period of confinement then the  
31 community placement portion of the sentence shall consist entirely of  
32 the community custody to which the offender may become eligible, in  
33 accordance with RCW 9.94A.150 (1) and (2). Any period of community  
34 custody actually served shall be credited against the community  
35 placement portion of the sentence. Unless a condition is waived by the  
36 court, the terms of community placement for offenders sentenced  
37 pursuant to this section shall include the following conditions:

38 (i) The offender shall report to and be available for contact with  
39 the assigned community corrections officer as directed;

1 (ii) The offender shall work at department of corrections-approved  
2 education, employment, and/or community service;

3 (iii) The offender shall not consume controlled substances except  
4 pursuant to lawfully issued prescriptions;

5 (iv) An offender in community custody shall not unlawfully possess  
6 controlled substances;

7 (v) The offender shall pay supervision fees as determined by the  
8 department of corrections; and

9 (vi) The residence location and living arrangements are subject to  
10 the prior approval of the department of corrections during the period  
11 of community placement.

12 (c) As a part of any sentence imposed under (a) or (b) of this  
13 subsection, the court may also order any of the following special  
14 conditions:

15 (i) The offender shall remain within, or outside of, a specified  
16 geographical boundary;

17 (ii) The offender shall not have direct or indirect contact with  
18 the victim of the crime or a specified class of individuals;

19 (iii) The offender shall participate in crime-related treatment or  
20 counseling services;

21 (iv) The offender shall not consume alcohol;

22 (v) The offender shall comply with any crime-related prohibitions;  
23 or

24 (vi) For an offender convicted of a felony sex offense against a  
25 minor victim after June 6, 1996, the offender shall comply with any  
26 terms and conditions of community placement imposed by the department  
27 of corrections relating to contact between the sex offender and a minor  
28 victim or a child of similar age or circumstance as a previous victim.

29 (d) Prior to transfer to, or during, community placement, any  
30 conditions of community placement may be removed or modified so as not  
31 to be more restrictive by the sentencing court, upon recommendation of  
32 the department of corrections.

33 (10)(a) When a court sentences a person to the custody of the  
34 department of corrections for an offense categorized as a sex offense  
35 committed on or after June 6, 1996, the court shall, in addition to  
36 other terms of the sentence, sentence the offender to community custody  
37 for three years or up to the period of earned early release awarded  
38 pursuant to RCW 9.94A.150 (1) and (2), whichever is longer. The  
39 community custody shall begin either upon completion of the term of



1 confinement or at such time as the offender is transferred to community  
2 custody in lieu of earned early release in accordance with RCW  
3 9.94A.150 (1) and (2).

4 (b) Unless a condition is waived by the court, the terms of  
5 community custody shall be the same as those provided for in subsection  
6 (9)(b) of this section and may include those provided for in subsection  
7 (9)(c) of this section. As part of any sentence that includes a term  
8 of community custody imposed under this subsection, the court shall  
9 also require the offender to comply with any conditions imposed by the  
10 department of corrections under subsection (14) of this section.

11 (c) At any time prior to the completion of a sex offender's term of  
12 community custody, if the court finds that public safety would be  
13 enhanced, the court may impose and enforce an order extending any or  
14 all of the conditions imposed pursuant to this section for a period up  
15 to the maximum allowable sentence for the crime as it is classified in  
16 chapter 9A.20 RCW, regardless of the expiration of the offender's term  
17 of community custody. If a violation of a condition extended under  
18 this subsection occurs after the expiration of the offender's term of  
19 community custody, it shall be deemed a violation of the sentence for  
20 the purposes of RCW 9.94A.195 and may be punishable as contempt of  
21 court as provided for in RCW 7.21.040.

22 (11) If the court imposes a sentence requiring confinement of  
23 thirty days or less, the court may, in its discretion, specify that the  
24 sentence be served on consecutive or intermittent days. A sentence  
25 requiring more than thirty days of confinement shall be served on  
26 consecutive days. Local jail administrators may schedule court-ordered  
27 intermittent sentences as space permits.

28 (12) If a sentence imposed includes payment of a legal financial  
29 obligation, the sentence shall specify the total amount of the legal  
30 financial obligation owed, and shall require the offender to pay a  
31 specified monthly sum toward that legal financial obligation.  
32 Restitution to victims shall be paid prior to any other payments of  
33 monetary obligations. Any legal financial obligation that is imposed  
34 by the court may be collected by the department, which shall deliver  
35 the amount paid to the county clerk for credit. The offender's  
36 compliance with payment of legal financial obligations shall be  
37 supervised by the department. All monetary payments ordered shall be  
38 paid no later than ten years after the last date of release from  
39 confinement pursuant to a felony conviction or the date the sentence

1 was entered. Independent of the department, the party or entity to  
2 whom the legal financial obligation is owed shall have the authority to  
3 utilize any other remedies available to the party or entity to collect  
4 the legal financial obligation. Nothing in this section makes the  
5 department, the state, or any of its employees, agents, or other  
6 persons acting on their behalf liable under any circumstances for the  
7 payment of these legal financial obligations. If an order includes  
8 restitution as one of the monetary assessments, the county clerk shall  
9 make disbursements to victims named in the order.

10 (13) Except as provided under RCW 9.94A.140(1) and 9.94A.142(1), a  
11 court may not impose a sentence providing for a term of confinement or  
12 community supervision or community placement which exceeds the  
13 statutory maximum for the crime as provided in chapter 9A.20 RCW.

14 (14) All offenders sentenced to terms involving community  
15 supervision, community service, community placement, or legal financial  
16 obligation shall be under the supervision of the department of  
17 corrections and shall follow explicitly the instructions and conditions  
18 of the department of corrections.

19 (a) The instructions shall include, at a minimum, reporting as  
20 directed to a community corrections officer, remaining within  
21 prescribed geographical boundaries, notifying the community corrections  
22 officer of any change in the offender's address or employment, and  
23 paying the supervision fee assessment.

24 (b) For sex offenders sentenced to terms involving community  
25 custody for crimes committed on or after June 6, 1996, the department  
26 may include, in addition to the instructions in (a) of this subsection,  
27 any appropriate conditions of supervision, including but not limited  
28 to, prohibiting the offender from having contact with any other  
29 specified individuals or specific class of individuals. The conditions  
30 authorized under this subsection (14)(b) may be imposed by the  
31 department prior to or during a sex offender's community custody term.  
32 If a violation of conditions imposed by the court or the department  
33 pursuant to subsection (10) of this section occurs during community  
34 custody, it shall be deemed a violation of community placement for the  
35 purposes of RCW 9.94A.207 and shall authorize the department to  
36 transfer an offender to a more restrictive confinement status as  
37 provided in RCW 9.94A.205. At any time prior to the completion of a  
38 sex offender's term of community custody, the department may recommend  
39 to the court that any or all of the conditions imposed by the court or

1 the department pursuant to subsection (10) of this section be continued  
2 beyond the expiration of the offender's term of community custody as  
3 authorized in subsection (10)(c) of this section.

4 The department may require offenders to pay for special services  
5 rendered on or after July 25, 1993, including electronic monitoring,  
6 day reporting, and telephone reporting, dependent upon the offender's  
7 ability to pay. The department may pay for these services for  
8 offenders who are not able to pay.

9 (15) All offenders sentenced to terms involving community  
10 supervision, community service, or community placement under the  
11 supervision of the department of corrections shall not own, use, or  
12 possess firearms or ammunition. Offenders who own, use, or are found  
13 to be in actual or constructive possession of firearms or ammunition  
14 shall be subject to the appropriate violation process and sanctions.  
15 "Constructive possession" as used in this subsection means the power  
16 and intent to control the firearm or ammunition. "Firearm" as used in  
17 this subsection means a weapon or device from which a projectile may be  
18 fired by an explosive such as gunpowder.

19 (16) The sentencing court shall give the offender credit for all  
20 confinement time served before the sentencing if that confinement was  
21 solely in regard to the offense for which the offender is being  
22 sentenced.

23 (17) A departure from the standards in RCW 9.94A.400 (1) and (2)  
24 governing whether sentences are to be served consecutively or  
25 concurrently is an exceptional sentence subject to the limitations in  
26 subsections (2) and (3) of this section, and may be appealed by the  
27 defendant or the state as set forth in RCW 9.94A.210 (2) through (6).

28 (18) The court shall order restitution whenever the offender is  
29 convicted of a felony that results in injury to any person or damage to  
30 or loss of property, whether the offender is sentenced to confinement  
31 or placed under community supervision, unless extraordinary  
32 circumstances exist that make restitution inappropriate in the court's  
33 judgment. The court shall set forth the extraordinary circumstances in  
34 the record if it does not order restitution.

35 (19) As a part of any sentence, the court may impose and enforce an  
36 order that relates directly to the circumstances of the crime for which  
37 the offender has been convicted, prohibiting the offender from having  
38 any contact with other specified individuals or a specific class of  
39 individuals for a period not to exceed the maximum allowable sentence

1 for the crime, regardless of the expiration of the offender's term of  
2 community supervision or community placement.

3 (20) In any sentence of partial confinement, the court may require  
4 the defendant to serve the partial confinement in work release, in a  
5 program of home detention, on work crew, or in a combined program of  
6 work crew and home detention.

7 (21) All court-ordered legal financial obligations collected by the  
8 department and remitted to the county clerk shall be credited and paid  
9 where restitution is ordered. Restitution shall be paid prior to any  
10 other payments of monetary obligations.

11 **Sec. 5.** RCW 9.94A.360 and 1995 c 316 s 1 and 1995 c 101 s 1 are  
12 each reenacted and amended to read as follows:

13 The offender score is measured on the horizontal axis of the  
14 sentencing grid. The offender score rules are as follows:

15 The offender score is the sum of points accrued under this section  
16 rounded down to the nearest whole number.

17 (1) A prior conviction is a conviction which exists before the date  
18 of sentencing for the offense for which the offender score is being  
19 computed. Convictions entered or sentenced on the same date as the  
20 conviction for which the offender score is being computed shall be  
21 deemed "other current offenses" within the meaning of RCW 9.94A.400.

22 (2) (~~Except as provided in subsection (4) of this section,~~) Class  
23 A and sex prior felony convictions shall always be included in the  
24 offender score. Class B prior felony convictions other than sex  
25 offenses shall not be included in the offender score, if since the last  
26 date of release from confinement (including full-time residential  
27 treatment) pursuant to a felony conviction, if any, or entry of  
28 judgment and sentence, the offender had spent ten consecutive years in  
29 the community without committing any crime that subsequently results in  
30 a conviction. Class C prior felony convictions other than sex offenses  
31 shall not be included in the offender score if, since the last date of  
32 release from confinement (including full-time residential treatment)  
33 pursuant to a felony conviction, if any, or entry of judgment and  
34 sentence, the offender had spent five consecutive years in the  
35 community without committing any crime that subsequently results in a  
36 conviction. Serious traffic convictions shall not be included in the  
37 offender score if, since the last date of release from confinement  
38 (including full-time residential treatment) pursuant to a felony

conviction, if any, or entry of judgment and sentence, the offender spent five years in the community without committing any crime that subsequently results in a conviction. This subsection applies to both adult and juvenile prior convictions.

(3) Out-of-state convictions for offenses shall be classified according to the comparable offense definitions and sentences provided by Washington law. Federal convictions for offenses shall be classified according to the comparable offense definitions and sentences provided by Washington law. If there is no clearly comparable offense under Washington law or the offense is one that is usually considered subject to exclusive federal jurisdiction, the offense shall be scored as a class C felony equivalent if it was a felony under the relevant federal statute.

~~(4) ((Always include juvenile convictions for sex offenses and serious violent offenses. Include other class A juvenile felonies only if the offender was 15 or older at the time the juvenile offense was committed. Include other class B and C juvenile felony convictions only if the offender was 15 or older at the time the juvenile offense was committed and the offender was less than 23 at the time the offense for which he or she is being sentenced was committed.~~

~~(5))~~ Score prior convictions for felony anticipatory offenses (attempts, criminal solicitations, and criminal conspiracies) the same as if they were convictions for completed offenses.

~~((+6))~~ (5)(a) In the case of multiple prior convictions, for the purpose of computing the offender score, count all convictions separately, except:

(i) Prior ~~((adult))~~ offenses which were found, under RCW 9.94A.400(1)(a), to encompass the same criminal conduct, shall be counted as one offense, the offense that yields the highest offender score. The current sentencing court shall determine with respect to other prior adult offenses for which sentences were served concurrently or prior juvenile offenses for which sentences were served consecutively, whether those offenses shall be counted as one offense or as separate offenses using the "same criminal conduct" analysis found in RCW 9.94A.400(1)(a), and if the court finds that they shall be counted as one offense, then the offense that yields the highest offender score shall be used. The current sentencing court may presume that such other prior ~~((adult))~~ offenses were not the same criminal conduct from sentences imposed on separate dates, or in separate

1 counties or jurisdictions, or in separate complaints, indictments, or  
2 informations; and

3 ~~((ii))~~ ~~((Juvenile prior convictions entered or sentenced on the same~~  
4 ~~date shall count as one offense, the offense that yields the highest~~  
5 ~~offender score, except for juvenile prior convictions for violent~~  
6 ~~offenses with separate victims, which shall count as separate offenses;~~  
7 ~~and~~

8 ~~((iii)))~~ In the case of multiple prior convictions for offenses  
9 committed before July 1, 1986, for the purpose of computing the  
10 offender score, count all adult convictions served concurrently as one  
11 offense, and count all juvenile convictions entered on the same date as  
12 one offense. Use the conviction for the offense that yields the  
13 highest offender score.

14 (b) As used in this subsection ~~((+6+))~~ (5), "served concurrently"  
15 means that: (i) The latter sentence was imposed with specific  
16 reference to the former; (ii) the concurrent relationship of the  
17 sentences was judicially imposed; and (iii) the concurrent timing of  
18 the sentences was not the result of a probation or parole revocation on  
19 the former offense.

20 ~~((+7+))~~ (6) If the present conviction is one of the anticipatory  
21 offenses of criminal attempt, solicitation, or conspiracy, count each  
22 prior conviction as if the present conviction were for a completed  
23 offense.

24 ~~((+8+))~~ (7) If the present conviction is for a nonviolent offense  
25 and not covered by subsection (11) or (12) ~~((or +13+))~~ of this section,  
26 count one point for each adult prior felony conviction and one point  
27 for each juvenile prior violent felony conviction and « point for each  
28 juvenile prior nonviolent felony conviction.

29 ~~((+9+))~~ (8) If the present conviction is for a violent offense and  
30 not covered in subsection (9), (10), (11), or (12) ~~((+or +13+))~~ of this  
31 section, count two points for each prior adult and juvenile violent  
32 felony conviction, one point for each prior adult nonviolent felony  
33 conviction, and « point for each prior juvenile nonviolent felony  
34 conviction.

35 ~~((+10+))~~ (9) If the present conviction is for Murder 1 or 2,  
36 Assault 1, Assault of a Child 1, Kidnapping 1, Homicide by Abuse, or  
37 Rape 1, count three points for prior adult and juvenile convictions for  
38 crimes in these categories, two points for each prior adult and  
39 juvenile violent conviction (not already counted), one point for each

1 prior adult nonviolent felony conviction, and « point for each prior  
2 juvenile nonviolent felony conviction.

3 ~~((+11+))~~ (10) If the present conviction is for Burglary 1, count  
4 prior convictions as in subsection ~~((+9+))~~ (8) of this section; however  
5 count two points for each prior adult Burglary 2 or residential  
6 burglary conviction, and one point for each prior juvenile Burglary 2  
7 or residential burglary conviction.

8 ~~((+12+))~~ (11) If the present conviction is for a felony traffic  
9 offense count two points for each adult or juvenile prior conviction  
10 for Vehicular Homicide or Vehicular Assault; for each felony offense or  
11 serious traffic offense, count one point for each adult and « point for  
12 each juvenile prior conviction.

13 ~~((+13+))~~ (12) If the present conviction is for a drug offense count  
14 three points for each adult prior felony drug offense conviction and  
15 two points for each juvenile drug offense. All other adult and  
16 juvenile felonies are scored as in subsection ~~((+9+))~~ (8) of this  
17 section if the current drug offense is violent, or as in subsection  
18 ~~((+8+))~~ (7) of this section if the current drug offense is nonviolent.

19 ~~((+14+))~~ (13) If the present conviction is for Willful Failure to  
20 Return from Furlough, RCW 72.66.060, Willful Failure to Return from  
21 Work Release, RCW 72.65.070, or Escape from Community Custody, RCW  
22 72.09.310, count only prior escape convictions in the offender score.  
23 Count adult prior escape convictions as one point and juvenile prior  
24 escape convictions as « point.

25 ~~((+15+))~~ (14) If the present conviction is for Escape 1, RCW  
26 9A.76.110, or Escape 2, RCW 9A.76.120, count adult prior convictions as  
27 one point and juvenile prior convictions as « point.

28 ~~((+16+))~~ (15) If the present conviction is for Burglary 2 or  
29 residential burglary, count priors as in subsection ~~((+8+))~~ (7) of this  
30 section; however, count two points for each adult and juvenile prior  
31 Burglary 1 conviction, two points for each adult prior Burglary 2 or  
32 residential burglary conviction, and one point for each juvenile prior  
33 Burglary 2 or residential burglary conviction.

34 ~~((+17+))~~ (16) If the present conviction is for a sex offense, count  
35 priors as in subsections ~~((+8+))~~ (7) through ~~((+16+))~~ (15) of this  
36 section; however count three points for each adult and juvenile prior  
37 sex offense conviction.

38 ~~((+18+))~~ (17) If the present conviction is for an offense committed  
39 while the offender was under community placement, add one point.

1       **Sec. 6.** RCW 9A.04.050 and 1975 1st ex.s. c 260 s 9A.04.050 are  
2 each amended to read as follows:

3       Children under the age of eight years are incapable of committing  
4 crime. Children of eight and under twelve years of age are presumed to  
5 be incapable of committing crime, but this presumption may be removed  
6 by proof that they have sufficient capacity to understand the act or  
7 neglect, and to know that it was wrong. The court shall hold a hearing  
8 to determine whether a child who is ten or eleven years of age and who  
9 is alleged to have committed an offense has the capacity to understand  
10 the alleged act or neglect and that it is wrong. Whenever in legal  
11 proceedings it becomes necessary to determine the age of a child, he or  
12 she may be produced for inspection, to enable the court or jury to  
13 determine the age thereby; and the court may also direct ((his)) the  
14 child's examination by one or more physicians, whose opinion shall be  
15 competent evidence upon the question of ((his)) the child's age.

16       **Sec. 7.** RCW 13.04.030 and 1995 c 312 s 39 and 1995 c 311 s 15 are  
17 each reenacted and amended to read as follows:

18       (1) Except as provided in subsection (2) of this section, the  
19 juvenile courts in the several counties of this state, shall have  
20 exclusive original jurisdiction over all proceedings:

21       (a) Under the interstate compact on placement of children as  
22 provided in chapter 26.34 RCW;

23       (b) Relating to children alleged or found to be dependent as  
24 provided in chapter 26.44 RCW and in RCW 13.34.030 through 13.34.170;

25       (c) Relating to the termination of a parent and child relationship  
26 as provided in RCW 13.34.180 through 13.34.210;

27       (d) To approve or disapprove out-of-home placement as provided in  
28 RCW 13.32A.170;

29       (e) Relating to juveniles alleged or found to have committed  
30 offenses, traffic or civil infractions, or violations as provided in  
31 RCW 13.40.020 through 13.40.230, unless:

32       (i) The juvenile court transfers jurisdiction of a particular  
33 juvenile to adult criminal court pursuant to RCW 13.40.110; or

34       (ii) The statute of limitations applicable to adult prosecution for  
35 the offense, traffic infraction, or violation has expired; or

36       (iii) The alleged offense or infraction is a traffic, fish,  
37 boating, or game offense, or traffic or civil infraction committed by  
38 a juvenile sixteen years of age or older and would, if committed by an



1 adult, be tried or heard in a court of limited jurisdiction, in which  
2 instance the appropriate court of limited jurisdiction shall have  
3 jurisdiction over the alleged offense or infraction, and no guardian ad  
4 litem is required in any such proceeding due to the juvenile's age:

5 PROVIDED, That if such an alleged offense or infraction and an alleged  
6 offense or infraction subject to juvenile court jurisdiction arise out  
7 of the same event or incident, the juvenile court may have jurisdiction  
8 of both matters: PROVIDED FURTHER, That the jurisdiction under this  
9 subsection does not constitute "transfer" or a "decline" for purposes  
10 of RCW 13.40.110(1) or (e)(i) of this subsection: PROVIDED FURTHER,  
11 That courts of limited jurisdiction which confine juveniles for an  
12 alleged offense or infraction may place juveniles in juvenile detention  
13 facilities under an agreement with the officials responsible for the  
14 administration of the juvenile detention facility in RCW 13.04.035 and  
15 13.20.060; or

16 (iv) The juvenile is sixteen or seventeen years old and the alleged  
17 offense is: (A) A serious violent offense as defined in RCW 9.94A.030  
18 committed on or after June 13, 1994; or (B) a violent offense as  
19 defined in RCW 9.94A.030 committed on or after June 13, 1994, but  
20 before the effective date of this act, and the juvenile has a criminal  
21 history consisting of: (I) One or more prior serious violent offenses;  
22 (II) two or more prior violent offenses; or (III) three or more of any  
23 combination of the following offenses: Any class A felony, any class  
24 B felony, vehicular assault, or manslaughter in the second degree, all  
25 of which must have been committed after the juvenile's thirteenth  
26 birthday and prosecuted separately; or (C) a violent offense as defined  
27 in RCW 9.94A.030 committed on or after the effective date of this act.  
28 In such a case the adult criminal court shall have exclusive original  
29 jurisdiction.

30 If the juvenile challenges the state's determination of the  
31 juvenile's criminal history, the state may establish the offender's  
32 criminal history by a preponderance of the evidence. If the criminal  
33 history consists of adjudications entered upon a plea of guilty, the  
34 state shall not bear a burden of establishing the knowing and  
35 voluntariness of the plea;

36 (f) Under the interstate compact on juveniles as provided in  
37 chapter 13.24 RCW;

(g) Relating to termination of a diversion agreement under RCW 13.40.080, including a proceeding in which the divertee has attained eighteen years of age;

(h) Relating to court validation of a voluntary consent to an out-of-home placement under chapter 13.34 RCW, by the parent or Indian custodian of an Indian child, except if the parent or Indian custodian and child are residents of or domiciled within the boundaries of a federally recognized Indian reservation over which the tribe exercises exclusive jurisdiction; and

(i) Relating to petitions to compel disclosure of information filed by the department of social and health services pursuant to RCW 74.13.042.

(2) The family court shall have concurrent original jurisdiction with the juvenile court over all proceedings under this section if the superior court judges of a county authorize concurrent jurisdiction as provided in RCW 26.12.010.

(3) A juvenile subject to adult superior court jurisdiction under subsection (1)(e) (i) through (iv) of this section, who is detained pending trial, may be detained in a county detention facility as defined in RCW 13.40.020 pending sentencing or a dismissal.

**Sec. 8.** RCW 13.40.010 and 1992 c 205 s 101 are each amended to read as follows:

(1) This chapter shall be known and cited as the Juvenile Justice Act of 1977.

(2) It is the intent of the legislature that a system capable of having primary responsibility for, being accountable for, and responding to the needs of youthful offenders, as defined by this chapter, be established. It is the further intent of the legislature that youth, in turn, be held accountable for their offenses and that ~~((both))~~ communities, families, and the juvenile courts carry out their functions consistent with this intent. To effectuate these policies, the legislature declares the following to be equally important purposes of this chapter:

(a) Protect the citizenry from criminal behavior;

(b) Provide for determining whether accused juveniles have committed offenses as defined by this chapter;

(c) Make the juvenile offender accountable for his or her criminal behavior;

(d) Provide for punishment commensurate with the age, crime, and criminal history of the juvenile offender;

(e) Provide due process for juveniles alleged to have committed an offense;

(f) Provide necessary treatment, supervision, and custody for juvenile offenders;

(g) Provide for the handling of juvenile offenders by communities whenever consistent with public safety;

(h) Provide for restitution to victims of crime;

(i) Develop effective standards and goals for the operation, funding, and evaluation of all components of the juvenile justice system and related services at the state and local levels; ((and))

(j) Provide for a clear policy to determine what types of offenders shall receive punishment, treatment, or both, and to determine the jurisdictional limitations of the courts, institutions, and community services; and

(k) Encourage the parents, guardian, or custodian of the juvenile to actively participate in the juvenile justice process.

**Sec. 9.** RCW 13.40.020 and 1995 c 395 s 2 and 1995 c 134 s 1 are each reenacted and amended to read as follows:

For the purposes of this chapter:

~~(1) ("Serious offender" means a person fifteen years of age or older who has committed an offense which if committed by an adult would be:~~

~~(a) A class A felony, or an attempt to commit a class A felony;~~

~~(b) Manslaughter in the first degree; or~~

~~(c) Assault in the second degree, extortion in the first degree, child molestation in the second degree, kidnapping in the second degree, robbery in the second degree, residential burglary, or burglary in the second degree, where such offenses include the infliction of bodily harm upon another or where during the commission of or immediate withdrawal from such an offense the perpetrator is armed with a deadly weapon;~~

~~(2))~~ "Community service" means compulsory service, without compensation, performed for the benefit of the community by the offender as punishment for committing an offense. Community service may be performed through public or private organizations or through work crews;

1       (~~(+3+)~~) (2) "Community supervision" means an order of disposition  
2 by the court of an adjudicated youth not committed to the department or  
3 an order granting a deferred (~~(adjudication)~~) disposition pursuant to  
4 RCW 13.40.125. A community supervision order for a single offense may  
5 be for a period of up to two years for a sex offense as defined by RCW  
6 9.94A.030 and up to one year for other offenses. As a mandatory  
7 condition of any term of community supervision, the court shall order  
8 the juvenile to refrain from committing new offenses. As a mandatory  
9 condition of community supervision, the court shall order the juvenile  
10 to comply with the mandatory school attendance provisions of chapter  
11 28A.225 RCW and to inform the school of the existence of this  
12 requirement. Community supervision is an individualized program  
13 comprised of one or more of the following:

- 14       (a) Community-based sanctions;
- 15       (b) Community-based rehabilitation;
- 16       (c) Monitoring and reporting requirements;
- 17       (d) Posting of a probation bond (~~(imposed pursuant to RCW~~  
18 ~~13.40.0357))~~);

19       (~~(+4+)~~) (3) Community-based sanctions may include one or more of  
20 the following:

- 21       (a) A fine, not to exceed (~~(one)~~) five hundred dollars;
- 22       (b) Community service not to exceed one hundred fifty hours of  
23 service;

24       (~~(+5+)~~) (4) "Community-based rehabilitation" means one or more of  
25 the following: Employment; attendance of information classes;  
26 counseling, outpatient substance abuse treatment programs, outpatient  
27 mental health programs, anger management classes, education or  
28 outpatient treatment programs to prevent animal cruelty, or other  
29 services; or attendance at school or other educational programs  
30 appropriate for the juvenile as determined by the school district.  
31 Placement in community-based rehabilitation programs is subject to  
32 available funds;

33       (~~(+6+)~~) (5) "Monitoring and reporting requirements" means one or  
34 more of the following: Curfews; requirements to remain at home,  
35 school, work, or court-ordered treatment programs during specified  
36 hours; restrictions from leaving or entering specified geographical  
37 areas; requirements to report to the probation officer as directed and  
38 to remain under the probation officer's supervision; and other

1 conditions or limitations as the court may require which may not  
2 include confinement;

3       (~~((+7))~~) (6) "Confinement" means physical custody by the department  
4 of social and health services in a facility operated by or pursuant to  
5 a contract with the state, or physical custody in a detention facility  
6 operated by or pursuant to a contract with any county. The county may  
7 operate or contract with vendors to operate county detention  
8 facilities. The department may operate or contract to operate  
9 detention facilities for juveniles committed to the department.  
10 Pretrial confinement or confinement of less than thirty-one days  
11 imposed as part of a disposition or modification order may be served  
12 consecutively or intermittently, in the discretion of the court;

13       (~~((+8))~~) (7) "Court,"(~~((+))~~) when used without further qualification,  
14 means the juvenile court judge(s) or commissioner(s);

15       (~~((+9))~~) (8) "Criminal history" includes all criminal complaints  
16 against the respondent for which, prior to the commission of a current  
17 offense:

18       (a) The allegations were found correct by a court. If a respondent  
19 is convicted of two or more charges arising out of the same course of  
20 conduct, only the highest charge from among these shall count as an  
21 offense for the purposes of this chapter; or

22       (b) The criminal complaint was diverted by a prosecutor pursuant to  
23 the provisions of this chapter on agreement of the respondent and after  
24 an advisement to the respondent that the criminal complaint would be  
25 considered as part of the respondent's criminal history. A  
26 successfully completed deferred adjudication that was entered before  
27 the effective date of this act or a deferred disposition shall not be  
28 considered part of the respondent's criminal history;

29       (~~((+10))~~) (9) "Department" means the department of social and health  
30 services;

31       (~~((+11))~~) (10) "Detention facility" means a county facility, paid  
32 for by the county, for the physical confinement of a juvenile alleged  
33 to have committed an offense or an adjudicated offender subject to a  
34 disposition or modification order. "Detention facility" includes  
35 county group homes, inpatient substance abuse programs, juvenile basic  
36 training camps, and electronic monitoring;

37       (~~((+12))~~) (11) "Diversion unit" means any probation counselor who  
38 enters into a diversion agreement with an alleged youthful offender, or  
39 any other person, community accountability board, or other entity

1 except a law enforcement official or entity, with whom the juvenile  
2 court administrator has contracted to arrange and supervise such  
3 agreements pursuant to RCW 13.40.080, or any person, community  
4 accountability board, or other entity specially funded by the  
5 legislature to arrange and supervise diversion agreements in accordance  
6 with the requirements of this chapter. For purposes of this  
7 subsection, "community accountability board" means a board comprised of  
8 members of the local community in which the juvenile offender resides.  
9 The superior court shall appoint the members. The boards shall consist  
10 of at least three and not more than seven members. If possible, the  
11 board should include a variety of representatives from the community,  
12 such as a law enforcement officer, teacher or school administrator,  
13 high school student, parent, and business owner, and should represent  
14 the cultural diversity of the local community;

15 ~~((13))~~ (12) "Institution" means a juvenile facility established  
16 pursuant to chapters 72.05 and 72.16 through 72.20 RCW;

17 ~~((14))~~ (13) "Juvenile," "youth," and "child" mean any individual  
18 who is under the chronological age of eighteen years and who has not  
19 been previously transferred to adult court pursuant to RCW 13.40.110 or  
20 who is otherwise under adult court jurisdiction;

21 ~~((15))~~ (14) "Juvenile offender" means any juvenile who has been  
22 found by the juvenile court to have committed an offense, including a  
23 person eighteen years of age or older over whom jurisdiction has been  
24 extended under RCW 13.40.300;

25 (15) "Local sanctions" mean one or more of the following: (a) 0-30  
26 days of confinement; (b) 0-12 months of community supervision; (c)  
27 0-150 hours of community service; or (d) \$0-\$500 fine;

28 (16) "Manifest injustice" means a disposition that would either  
29 impose an excessive penalty on the juvenile or would impose a serious,  
30 and clear danger to society in light of the purposes of this chapter;

31 ~~((17) ("Middle offender" means a person who has committed an~~  
32 ~~offense and who is neither a minor or first offender nor a serious~~  
33 ~~offender;~~

34 ~~((18) "Minor or first offender" means a person whose current~~  
35 ~~offense(s) and criminal history fall entirely within one of the~~  
36 ~~following categories:~~

37 ~~(a) Four misdemeanors;~~

38 ~~(b) Two misdemeanors and one gross misdemeanor;~~

39 ~~(c) One misdemeanor and two gross misdemeanors; and~~

1       ~~(d) Three gross misdemeanors.~~

2       ~~For purposes of this definition, current violations shall be~~  
3 ~~counted as misdemeanors;~~

4       ~~((19))~~ "Offense" means an act designated a violation or a crime if  
5 committed by an adult under the law of this state, under any ordinance  
6 of any city or county of this state, under any federal law, or under  
7 the law of another state if the act occurred in that state;

8       ~~((20))~~ (18) "Respondent" means a juvenile who is alleged or  
9 proven to have committed an offense;

10       ~~((21))~~ (19) "Restitution" means financial reimbursement by the  
11 offender to the victim, and shall be limited to easily ascertainable  
12 damages for injury to or loss of property, actual expenses incurred for  
13 medical treatment for physical injury to persons, lost wages resulting  
14 from physical injury, and costs of the victim's counseling reasonably  
15 related to the offense if the offense is a sex offense. Restitution  
16 shall not include reimbursement for damages for mental anguish, pain  
17 and suffering, or other intangible losses. Nothing in this chapter  
18 shall limit or replace civil remedies or defenses available to the  
19 victim or offender;

20       ~~((22))~~ (20) "Secretary" means the secretary of the department of  
21 social and health services. "Assistant secretary" means the assistant  
22 secretary for juvenile rehabilitation for the department;

23       ~~((23))~~ (21) "Services" mean services which provide alternatives  
24 to incarceration for those juveniles who have pleaded or been  
25 adjudicated guilty of an offense or have signed a diversion agreement  
26 pursuant to this chapter;

27       ~~((24))~~ (22) "Sex offense" means an offense defined as a sex  
28 offense in RCW 9.94A.030;

29       ~~((25))~~ (23) "Sexual motivation" means that one of the purposes  
30 for which the respondent committed the offense was for the purpose of  
31 his or her sexual gratification;

32       ~~((26))~~ (24) "Foster care" means temporary physical care in a  
33 foster family home or group care facility as defined in RCW 74.15.020  
34 and licensed by the department, or other legally authorized care;

35       ~~((27))~~ (25) "Violation" means an act or omission, which if  
36 committed by an adult, must be proven beyond a reasonable doubt, and is  
37 punishable by sanctions which do not include incarceration;

38       ~~((28))~~ (26) "Violent offense" means a violent offense as defined  
39 in RCW 9.94A.030;

((+29+)) (27) "Probation bond" means a bond, posted with sufficient security by a surety justified and approved by the court, to secure the offender's appearance at required court proceedings and compliance with court-ordered community supervision or conditions of release ordered pursuant to RCW 13.40.040 or 13.40.050. It also means a deposit of cash or posting of other collateral in lieu of a bond if approved by the court;

((+30+)) (28) "Surety" means an entity licensed under state insurance laws or by the state department of licensing, to write corporate, property, or probation bonds within the state, and justified and approved by the superior court of the county having jurisdiction of the case.

**Sec. 10.** RCW 13.40.0357 and 1996 c 205 s 6 are each amended to read as follows:

(1)

(( ~~SCHEDULE A~~ ))

**DESCRIPTION AND OFFENSE CATEGORY**

<i>JUVENILE DISPOSITION OFFENSE CATEGORY</i>	<i>DESCRIPTION (RCW CITATION)</i>	<i>JUVENILE DISPOSITION CATEGORY FOR ATTEMPT, BAILJUMP, CONSPIRACY, OR SOLICITATION</i>
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***Arson and Malicious Mischief***

<i>A</i>	<i>Arson 1 (9A.48.020)</i>	<i>B+</i>
<i>B</i>	<i>Arson 2 (9A.48.030)</i>	<i>C</i>
<i>C</i>	<i>Reckless Burning 1 (9A.48.040)</i>	<i>D</i>
<i>D</i>	<i>Reckless Burning 2 (9A.48.050)</i>	<i>E</i>
<i>B</i>	<i>Malicious Mischief 1 (9A.48.070)</i>	<i>C</i>
<i>C</i>	<i>Malicious Mischief 2 (9A.48.080)</i>	<i>D</i>
<i>D</i>	<i>Malicious Mischief 3 (&lt;\$50 is</i>	
	<i>E class) (9A.48.090)</i>	<i>E</i>
<i>E</i>	<i>Tampering with Fire Alarm</i>	
	<i>Apparatus (9.40.100)</i>	<i>E</i>
<i>A</i>	<i>Possession of Incendiary Device</i>	
	<i>(9.40.120)</i>	<i>B+</i>



1		<b><i>Assault and Other Crimes</i></b>	
2		<b><i>Involving Physical Harm</i></b>	
3	A	Assault 1 (9A.36.011)	B+
4	B+	Assault 2 (9A.36.021)	C+
5	C+	Assault 3 (9A.36.031)	D+
6	D+	Assault 4 (9A.36.041)	E
7	<u>B+</u>	<u>Drive-By Shooting</u>	
8		<u>(9A.36.045)</u>	<u>C+</u>
9	D+	Reckless Endangerment	
10		(9A.36.050)	E
11	C+	Promoting Suicide Attempt	
12		(9A.36.060)	D+
13	D+	Coercion (9A.36.070)	E
14	C+	Custodial Assault (9A.36.100)	D+
15		<b><i>Burglary and Trespass</i></b>	
16	B+	Burglary 1 (9A.52.020)	C+
17	<u>B</u>	<u>Residential Burglary</u>	
18		<u>(9A.52.025)</u>	<u>C</u>
19	B	Burglary 2 (9A.52.030)	C
20	D	Burglary Tools (Possession of)	
21		(9A.52.060)	E
22	D	Criminal Trespass 1 (9A.52.070)	E
23	E	Criminal Trespass 2 (9A.52.080)	E
24	<u>C</u>	<u>Vehicle Prowling 1 (9A.52.095)</u>	<u>D</u>
25	D	Vehicle Prowling 2 (9A.52.100)	E
26		<b><i>Drugs</i></b>	
27	E	Possession/Consumption of Alcohol	
28		(66.44.270)	E
29	C	Illegally Obtaining Legend Drug	
30		(69.41.020)	D
31	C+	Sale, Delivery, Possession of Legend	
32		Drug with Intent to Sell	
33		(69.41.030)	D+
34	E	Possession of Legend Drug	
35		(69.41.030)	E

1	<b>B+</b>	<b>Violation of Uniform Controlled</b>	
2		<b>Substances Act - Narcotic or</b>	
3		<b>Methamphetamine Sale</b>	
4		<b>(69.50.401(a)(1)(i) or (ii))</b>	<b>B+</b>
5	<b>C</b>	<b>Violation of Uniform Controlled</b>	
6		<b>Substances Act - Nonnarcotic Sale</b>	
7		<b>(69.50.401(a)(1)(iii))</b>	<b>C</b>
8	<b>E</b>	<b>Possession of Marihuana &lt;40 grams</b>	
9		<b>(69.50.401(e))</b>	<b>E</b>
10	<b>C</b>	<b>Fraudulently Obtaining Controlled</b>	
11		<b>Substance (69.50.403)</b>	<b>C</b>
12	<b>C+</b>	<b>Sale of Controlled Substance</b>	
13		<b>for Profit (69.50.410)</b>	<b>C+</b>
14	<b>E</b>	<b>Unlawful Inhalation (9.47A.020)</b>	<b>E</b>
15	<b>B</b>	<b>Violation of Uniform Controlled</b>	
16		<b>Substances Act - Narcotic or</b>	
17		<b>Methamphetamine</b>	
18		<b>Counterfeit Substances</b>	
19		<b>(69.50.401(b)(1)(i) or (ii))</b>	<b>B</b>
20	<b>C</b>	<b>Violation of Uniform Controlled</b>	
21		<b>Substances Act - Nonnarcotic</b>	
22		<b>Counterfeit Substances</b>	
23		<b>(69.50.401(b)(1) (iii), (iv),</b>	
24		<b>(v))</b>	<b>C</b>
25	<b>C</b>	<b>Violation of Uniform Controlled</b>	
26		<b>Substances Act - Possession of a</b>	
27		<b>Controlled Substance</b>	
28		<b>(69.50.401(d))</b>	<b>C</b>
29	<b>C</b>	<b>Violation of Uniform Controlled</b>	
30		<b>Substances Act - Possession of a</b>	
31		<b>Controlled Substance</b>	
32		<b>(69.50.401(c))</b>	<b>C</b>
33		<b><i>Firearms and Weapons</i></b>	
34	<b>B</b>	<b><u>Theft of Firearm (9A.56.300)</u></b>	<b>C</b>
35	<b>B</b>	<b><u>Possession of Stolen Firearm</u></b>	
36		<b><u>(9A.56.310)</u></b>	<b>C</b>
37	<b>E</b>	<b>Carrying Loaded Pistol Without</b>	
38		<b>Permit (9.41.050)</b>	<b>E</b>

1	<i>C</i>	<i>Possession of Firearms by Minor (&lt;18)</i>	
2		<i>(9.41.040(1) (b)(<del>(iv)</del>) (iii))</i>	<i>C</i>
3	<i>D+</i>	<i>Possession of Dangerous Weapon</i>	
4		<i>(9.41.250)</i>	<i>E</i>
5	<i>D</i>	<i>Intimidating Another Person by use</i>	
6		<i>of Weapon (9.41.270)</i>	<i>E</i>
7		<b><i>Homicide</i></b>	
8	<i>A+</i>	<i>Murder 1 (9A.32.030)</i>	<i>A</i>
9	<i>A+</i>	<i>Murder 2 (9A.32.050)</i>	<i>B+</i>
10	<i>B+</i>	<i>Manslaughter 1 (9A.32.060)</i>	<i>C+</i>
11	<i>C+</i>	<i>Manslaughter 2 (9A.32.070)</i>	<i>D+</i>
12	<i>B+</i>	<i>Vehicular Homicide (46.61.520)</i>	<i>C+</i>
13		<b><i>Kidnapping</i></b>	
14	<i>A</i>	<i>Kidnap 1 (9A.40.020)</i>	<i>B+</i>
15	<i>B+</i>	<i>Kidnap 2 (9A.40.030)</i>	<i>C+</i>
16	<i>C+</i>	<i>Unlawful Imprisonment</i>	
17		<i>(9A.40.040)</i>	<i>D+</i>
18		<b><i>Obstructing Governmental Operation</i></b>	
19	<i>((E))</i>		
20	<i>D</i>	<i>Obstructing a Law Enforcement</i>	
21		<i>Officer (9A.76.020)</i>	<i>E</i>
22	<i>E</i>	<i>Resisting Arrest (9A.76.040)</i>	<i>E</i>
23	<i>B</i>	<i>Introducing Contraband 1</i>	
24		<i>(9A.76.140)</i>	<i>C</i>
25	<i>C</i>	<i>Introducing Contraband 2</i>	
26		<i>(9A.76.150)</i>	<i>D</i>
27	<i>E</i>	<i>Introducing Contraband 3</i>	
28		<i>(9A.76.160)</i>	<i>E</i>
29	<i>B+</i>	<i>Intimidating a Public Servant</i>	
30		<i>(9A.76.180)</i>	<i>C+</i>
31	<i>B+</i>	<i>Intimidating a Witness</i>	
32		<i>(9A.72.110)</i>	<i>C+</i>
33		<b><i>Public Disturbance</i></b>	
34	<i>C+</i>	<i>Riot with Weapon (9A.84.010)</i>	<i>D+</i>
35	<i>D+</i>	<i>Riot Without Weapon</i>	
36		<i>(9A.84.010)</i>	<i>E</i>

1	<i>E</i>	<i>Failure to Disperse (9A.84.020)</i>	<i>E</i>
2	<i>E</i>	<i>Disorderly Conduct (9A.84.030)</i>	<i>E</i>
3		<b><i>Sex Crimes</i></b>	
4	<i>A</i>	<i>Rape 1 (9A.44.040)</i>	<i>B+</i>
5	<i>A-</i>	<i>Rape 2 (9A.44.050)</i>	<i>B+</i>
6	<i>C+</i>	<i>Rape 3 (9A.44.060)</i>	<i>D+</i>
7	<i>A-</i>	<i>Rape of a Child 1 (9A.44.073)</i>	<i>B+</i>
8	<i>B±</i>	<i>Rape of a Child 2 (9A.44.076)</i>	<i>C+</i>
9	<i>B</i>	<i>Incest 1 (9A.64.020(1))</i>	<i>C</i>
10	<i>C</i>	<i>Incest 2 (9A.64.020(2))</i>	<i>D</i>
11	<i>D+</i>	<i>Indecent Exposure</i>	
12		<i>(Victim &lt;14) (9A.88.010)</i>	<i>E</i>
13	<i>E</i>	<i>Indecent Exposure</i>	
14		<i>(Victim 14 or over) (9A.88.010)</i>	<i>E</i>
15	<i>B+</i>	<i>Promoting Prostitution 1</i>	
16		<i>(9A.88.070)</i>	<i>C+</i>
17	<i>C+</i>	<i>Promoting Prostitution 2</i>	
18		<i>(9A.88.080)</i>	<i>D+</i>
19	<i>E</i>	<i>O &amp; A (Prostitution) (9A.88.030)</i>	<i>E</i>
20	<i>B+</i>	<i>Indecent Liberties (9A.44.100)</i>	<i>C+</i>
21	<i>((B+))</i>		<i>((C+))</i>
22	<i><u>A-</u></i>	<i>Child Molestation 1 (9A.44.083)</i>	<i><u>B+</u></i>
23	<i>((C+))</i>		
24	<i><u>B</u></i>	<i>Child Molestation 2 (9A.44.086)</i>	<i><u>C±</u></i>
25		<b><i>Theft, Robbery, Extortion, and Forgery</i></b>	
26	<i>B</i>	<i>Theft 1 (9A.56.030)</i>	<i>C</i>
27	<i>C</i>	<i>Theft 2 (9A.56.040)</i>	<i>D</i>
28	<i>D</i>	<i>Theft 3 (9A.56.050)</i>	<i>E</i>
29	<i>B</i>	<i>Theft of Livestock (9A.56.080)</i>	<i>C</i>
30	<i>C</i>	<i>Forgery (9A.60.020)</i>	<i>D</i>
31	<i>A</i>	<i>Robbery 1 (9A.56.200)</i>	<i>B+</i>
32	<i>B+</i>	<i>Robbery 2 (9A.56.210)</i>	<i>C+</i>
33	<i>B+</i>	<i>Extortion 1 (9A.56.120)</i>	<i>C+</i>
34	<i>C+</i>	<i>Extortion 2 (9A.56.130)</i>	<i>D+</i>
35	<i>B</i>	<i>Possession of Stolen Property 1</i>	
36		<i>(9A.56.150)</i>	<i>C</i>
37	<i>C</i>	<i>Possession of Stolen Property 2</i>	
38		<i>(9A.56.160)</i>	<i>D</i>

1	<i>D Possession of Stolen Property 3</i>	
2	<i>(9A.56.170)</i>	<i>E</i>
3	<i>C Taking Motor Vehicle Without</i>	
4	<i>Owner's Permission (9A.56.070)</i>	<i>D</i>
5	<b><i>Motor Vehicle Related Crimes</i></b>	
6	<i>E Driving Without a License</i>	
7	<i>(46.20.021)</i>	<i>E</i>
8	<i>C Hit and Run - Injury</i>	
9	<i>(46.52.020(4))</i>	<i>D</i>
10	<i>D Hit and Run-Attended</i>	
11	<i>(46.52.020(5))</i>	<i>E</i>
12	<i>E Hit and Run-Unattended</i>	
13	<i>(46.52.010)</i>	<i>E</i>
14	<i>C Vehicular Assault (46.61.522)</i>	<i>D</i>
15	<i>C Attempting to Elude Pursuing</i>	
16	<i>Police Vehicle (46.61.024)</i>	<i>D</i>
17	<i>E Reckless Driving (46.61.500)</i>	<i>E</i>
18	<i>D Driving While Under the Influence</i>	
19	<i>(46.61.502 and 46.61.504)</i>	<i>E</i>
20	<del><i>((D Vehicle Prowling (9A.52.100)</i></del>	<del><i>E</i></del>
21	<del><i>C Taking Motor Vehicle Without</i></del>	
22	<del><i>Owner's Permission (9A.56.070)</i></del>	<del><i>D))</i></del>
23	<b><i>Other</i></b>	
24	<i>B Bomb Threat (9.61.160)</i>	<i>C</i>
25	<i>C Escape 1 (9A.76.110)</i>	<i>C</i>
26	<i>C Escape 2 (9A.76.120)</i>	<i>C</i>
27	<i>D Escape 3 (9A.76.130)</i>	<i>E</i>
28	<i>E Obscene, Harassing, Etc.,</i>	
29	<i>Phone Calls (9.61.230)</i>	<i>E</i>
30	<i>A Other Offense Equivalent to an</i>	
31	<i>Adult Class A Felony</i>	<i>B+</i>
32	<i>B Other Offense Equivalent to an</i>	
33	<i>Adult Class B Felony</i>	<i>C</i>
34	<i>C Other Offense Equivalent to an</i>	
35	<i>Adult Class C Felony</i>	<i>D</i>
36	<i>D Other Offense Equivalent to an</i>	
37	<i>Adult Gross Misdemeanor</i>	<i>E</i>

*E Other Offense Equivalent to an  
Adult Misdemeanor E  
V Violation of Order of Restitution,  
Community Supervision, or  
Confinement {13.40.200} V*

Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses and the standard range is established as follows:

1st escape or attempted escape during 12-month period - 4 weeks confinement

2nd escape or attempted escape during 12-month period - 8 weeks confinement

3rd and subsequent escape or attempted escape during 12-month period - 12 weeks confinement

If the court finds that a respondent has violated terms of an order, it may impose a penalty of up to 30 days of confinement.

**(( SCHEDULE B  
PRIOR OFFENSE INCREASE FACTOR**

~~For use with all CURRENT OFFENSES occurring on or after July 1, 1989.~~

**TIME SPAN**

**OFFENSE 0-12 13-24 25 Months  
CATEGORY Months Months or More**

	.....			
A+	.9	.9	.9	
A	.9	.8	.6	
A-	.9	.8	.5	
B+	.9	.7	.4	
B	.9	.6	.3	
C+	.6	.3	.2	
C	.5	.2	.2	
D+	.3	.2	.1	
D	.2	.1	.1	
E	.1	.1	.1	

~~Prior history—Any offense in which a diversion agreement or counsel and release form was signed, or any offense which has been adjudicated by court to be correct prior to the commission of the current offense(s).~~

**SCHEDULE C**  
**CURRENT OFFENSE POINTS**

~~For use with all CURRENT OFFENSES occurring on or after July 1, 1989.~~

**AGE**

~~OFFENSE—12 &  
CATEGORY Under 13 14 15 16 17~~

~~.....  
A+—STANDARD RANGE 180-224 WEEKS~~

~~A—250 300 350 375 375 375~~

~~A-—150 150 150 200 200 200~~

~~B+—110 110 120 130 140 150~~

~~B—45 45 50 50 57 57~~

~~C+—44 44 49 49 55 55~~

~~C—40 40 45 45 50 50~~

~~D+—16 18 20 22 24 26~~

~~D—14 16 18 20 22 24~~

~~E—4 4 4 6 8 10))~~

(2)

**JUVENILE SENTENCING STANDARDS**  
**(( SCHEDULE D-1 ))**

~~This schedule ((may only)) must be used for ((minor/first)) juvenile offenders. ((After the determination is made that a youth is a minor/first offender,)) The court ((has the discretion to)) may select sentencing option A, B, or C.~~

**(( MINOR/FIRST OFFENDER**

**OPTION A**  
**STANDARD RANGE**

*Community*

~~Community Service~~

~~Points Supervision Hours Fine~~

~~.....~~

~~1-9 0-3 months and/or 0-8 and/or 0-\$10~~  
~~10-19 0-3 months and/or 0-8 and/or 0-\$10~~  
~~20-29 0-3 months and/or 0-16 and/or 0-\$10~~  
~~30-39 0-3 months and/or 8-24 and/or 0-\$25~~  
~~40-49 3-6 months and/or 16-32 and/or 0-\$25~~  
~~50-59 3-6 months and/or 24-40 and/or 0-\$25~~  
~~60-69 6-9 months and/or 32-48 and/or 0-\$50~~  
~~70-79 6-9 months and/or 40-56 and/or 0-\$50~~  
~~80-89 9-12 months and/or 48-64 and/or 10-\$100~~  
~~90-109 9-12 months and/or 56-72 and/or 10-\$100~~

~~OR~~

~~OPTION B~~

~~STATUTORY OPTION~~

~~0-12 Months Community Supervision~~  
~~0-150 Hours Community Service~~  
~~0-100 Fine~~  
~~Posting of a Probation Bond~~

~~A term of community supervision with a maximum of 150 hours, \$100.00 fine, and 12 months supervision.~~

~~OR~~

~~OPTION C~~

~~MANIFEST INJUSTICE~~

~~When a term of community supervision would effectuate a manifest injustice, another disposition may be imposed. When a judge imposes a sentence of confinement exceeding 30 days, the court shall sentence the juvenile to a maximum term and the provisions of RCW 13.40.030(2) shall be used to determine the range.~~



**JUVENILE SENTENCING STANDARDS**

**SCHEDULE D-2**

This schedule may only be used for middle offenders. After the determination is made that a youth is a middle offender, the court has the discretion to select sentencing option A, B, or C.

**MIDDLE OFFENDER**

**OPTION A**

**STANDARD RANGE**

<i>Community</i>				
<i>Community</i>		<i>Service</i>		<i>Confinement</i>
<i>Points</i>	<i>Supervision</i>	<i>Hours</i>	<i>Fine</i>	<i>Days Weeks</i>
<hr/>				
1-9	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0
10-19	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0
20-29	0-3 months	and/or 0-16	and/or 0-\$10	and/or 0
30-39	0-3 months	and/or 8-24	and/or 0-\$25	and/or 2-4
40-49	3-6 months	and/or 16-32	and/or 0-\$25	and/or 2-4
50-59	3-6 months	and/or 24-40	and/or 0-\$25	and/or 5-10
60-69	6-9 months	and/or 32-48	and/or 0-\$50	and/or 5-10
70-79	6-9 months	and/or 40-56	and/or 0-\$50	and/or 10-20
80-89	9-12 months	and/or 48-64	and/or 0-\$100	and/or 10-20
90-109	9-12 months	and/or 56-72	and/or 0-\$100	and/or 15-30
110-129				8-12
130-149				13-16
150-199				21-28
200-249				30-40
250-299				52-65
300-374				80-100
375+				103-129

Middle offenders with 110 points or more do not have to be committed. They may be assigned community supervision under option B. All A+ offenses 180-224 weeks ) )

1  
2  
3  
4  
5  
6  
7  
8

OPTION A  
JUVENILE OFFENDER SENTENCING GRID  
STANDARD RANGE

---

A+    180 WEEKS TO AGE 21 YEARS

---

A    103 WEEKS TO 129 WEEKS

---

A-